IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUIT NO.1539 OF 1978

Uttamchand Otarmal Ranawat ..Plaintiff.

Vs.

Navnit Dhanraj Kothari ..Defendant.

....

Ms. Kavita Shah i/b A.G. Shah for the Plaintiff.
Mr. H.V. Chande for the Defendant.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

11th December, 2007.

P.C. :

Issues were framed on 20th November, 2007. The Court had directed that the affidavit of documents and evidence be filed on or before 4th December, 2007 and that the suit will be placed on 5th December, 2007 for recording evidence. Counsel appearing for the Plaintiff states that though letters have been addressed to the Plaintiff, no instructions are forthcoming. In these circumstances, the Court is constrained to dismiss the suit for want of prosecution.

The attention of the Court has been drawn to orders dated 15th March, 1979 and 29th June, 1979 by which leave to

defend the suit was granted to the Defendant subject to the deposit of an amount of Rs.25,000/-. It appears that Chamber Summons 749 of 1996 was taken out for extension of time to deposit a sum of Rs.17,500/- out of the total amount of Rs.25,000/-. Counsel appearing for the Plaintiff and the Defendant state that an order was passed on 7th August, 1996. The order dated 7th August, 1996 does not appear on the record of the present proceedings. In view of the dismissal of the suit for non-prosecution, there shall be a consequential order that subject to due verification by the Prothonotary and Senior Master, the amount, if any, deposited by the Defendant shall be refunded to the Defendant after expiry of a period of three months from today with accrued interest, if any.